

REMARKS

In the Final Office Action¹, the Examiner rejected claims 1-4 and 6-17² under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,717,582 to Duong (“Duong”) in view of U.S. Patent Application Publication 2003/0057994 to Braun et al. (“Braun”), and further in view of U.S. Patent Application Publication 2002/0194121 to Takayama (“Takayama”).

Claims 1-4 and 6-17 remain currently pending.

I. The Telephone Interview of May 12, 2009

The Applicant thanks the Examiner for the courtesies extended to Applicant's representative by Examiner Perungavoor during the telephone interview held May 12, 2009. During the interview, Examiner Perungavoor agreed that Duong, Braun, and Takayama fail to teach or suggest “a determining section which determines a key operation mode for performing a process in accordance with at least operating information supplied from an operation switch operated by a user arranged on a body, before the information detection section detects the command information and after the potential detection section detects the predetermined potential,” as recited in independent claim 1. Examiner Perungavoor stated that he would withdraw the finality of the Office Action after receiving this Request for Reconsideration. The remarks presented to and considered by the Examiner are summarized below.

¹ The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Final Office Action.

² The Final Office Action indicates, “[c]laims 1-17 are rejected under 35 U.S.C. § 103(a)” Final Office Action at p. 2. However, as claim 5 was canceled in Applicant's response of June 30, 2008, Applicant presumes the Examiner intended to indicate claims 1-4 and 6-17 as rejected under 35 U.S.C. § 103(a).

II. The Finality of the Office Action is Improper

In the non-final Office Action of August 18, 2008, the Office alleged that Braun discloses “operating information supplied from an operation switch operated by a user arranged on a body . . . see Par. 0044 & Par. 0029.” Office Action mailed August 18, 2008, p. 3. In Applicant’s response filed November 18, 2008, Applicant’s asserted that Braun clearly does not teach or suggest an “operating switch operated by a user arranged on a body,” as recited in claim 1, as Braun simply discloses an operation mode of a circuit, but does not disclose any operating switch operated by a user on a body. In response, the Final Office Action maintained the rejection, alleging that Braun discloses an operation switch operated by a user on a body. See Final Office Action at 3.

However, Applicant notes that the “Response to Arguments” section of the Final Office Action now alleges, for the first time, that “Takayama discloses the operation switch arranged on the body[.] [S]ee Fig. 3 item 204 that operates to switch from one mode to another.” Final Office Action at 2. This conflicts with the actual rejection of the claim, which still alleges that Braun discloses the operating switch. Therefore, as an initial matter, Applicant asserts that the finality of the Office Action is improper, at least because the Examiner has changed his rejection concerning what reference teaches the operating switch arranged on a main body, and this change was not necessitated by any amendment.

**III. Regarding the rejection of claims 1-4 and 6-17 under
35 U.S.C. §103(a) as being unpatentable over Duong in view of Braun
and Takayama**

Applicant respectfully traverses the rejection of claims 1-4 and 6-17 under 35 U.S.C. § 103(a) as unpatentable over Duong in view of Braun and Takayama. A *prima facie* case of obviousness has not been established with respect to the claims.

“The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections on obviousness cannot be sustained with mere conclusory statements.” M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” M.P.E.P. §2143.01(III) (emphasis in original). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” M.P.E.P. § 2141.02(I), (emphasis in original).

“[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art.” M.P.E.P. § 2141(II) (emphases added). “Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art.” M.P.E.P. § 2141(III).

Independent claim 1 recites:

an information detection section which detects command information from an external device supplied to the serial bus terminal; [and]

determin[ing] a key operation mode for performing a process in accordance with at least operating information supplied from an operation switch operated by a user arranged on a body, before the information detection section detects the command information and after the potential detection section detects the predetermined potential.

(emphases added). Duong, Braun and Takayama, taken alone or in combination, fail to teach or suggest at least the claimed determining of a key operation mode “before . . . detect[ing] the command information and after . . . detect[ing] the predetermined potential,” as well as the claimed command information from an external device.

Duong is directed to a switching circuit which provides “different operational modes, including hard-switching and soft-switching.” Duong, col. 1, ll. 10-11. Specifically, Duong discloses, “additional circuitry was heretofore required to perform the time consuming functions of slowing charge of the DC bus capacitor to a target voltage level following its complete discharge before one of the main switches is gated on . . . to avoid damage cause by discharge . . . [s]uch problems are avoided according to the present invention by selection of a hard-switching mode for the power switching circuit 14 during initial start up by gating off one of the mode selector switches 46 and 48 of the mode control section 16 and limiting current discharge from the resonant capacitors” Duong, col. 3, ll. 33-45. As such, Duong simply discloses switching to a hard-switching mode during start up, as a way to protect internal circuitry from damage due to discharge of capacitors.

The Office Action recognized that Duong “does not disclose the switch,” and relies on Braun, specifically paragraphs 0016, 0029, and 0044. See Office Action at p. 3. Braun, however, is completely unrelated to Applicant’s claimed invention.

Braun is directed to “an electronic circuit with a driver circuit to drive a signal onto a signal line.” Braun, ¶ [0002] (emphasis added). Braun is concerned with signals being received “via the bus line [where] the original signal may be overlaid by reflected signals occurring on an unterminated bus line end. The resulting change in the original signal may cause transfer errors.” Braun, ¶ [0004]. To prevent this, Braun provides a driver circuit, having first and second transistors, where “[a] respective signal is applied to control inputs of the first transistor 3 and the second transistor 4 in order to drive a signal, . . . [i]f the driver circuit 1 is not used to drive a signal onto the bus line BUS, the driver circuit 1 is switched to the passive mode. This can be done on the one hand by deactivating the first transistor 3 and the second transistor 4, so that neither the first supply voltage potential VDD nor the second supply voltage potential GND is applied to the bus line . . . in order to terminate the bus line . . . when no signal is transmitted, it can also be provided that the first transistor 3 and the second transistor 4 [are] simultaneously switched to a forward mode, so that a first forward resistance R1 is present . . . and a second forward resistance R2 is present” Braun, ¶ [0029].

In summary, Braun discloses an electrical circuit which has operation modes, such as passive and forward mode, which either apply resistance to the lines, or deactivate first and second transistors. “The operating mode that specifies whether data [is] to be transmitted via the driver circuit, or whether the driver circuit is to be switched to the passive mode, is indicated by a termination control signal TERM on a

first input of the control circuit 7." Braun, ¶ [0044]. Thus, the operation mode is selected according to the TERM signal provided by a control circuit. However, this control circuit simply consists of "a NOR circuit 8, a NAND circuit 9 and an inverter 10." Braun, ¶ [0044], and See Braun, Figure 1, elements 8-10. The operating mode is determined based on the TERM termination control signal received by these circuits.

In view of the above, as agreed to by the Examiner, there is no teaching or suggestion in Braun of a "key operation mode for performing a process in accordance with at least operating information supplied from an operating switch operated by a user arranged on a body, before the information detection section detects the command information and after the potential detection section detects the predetermined potential," as recited in independent claim 1. (emphasis added). A control circuit having NOR, NAND, and inverter gates is not an operating switch operated by a user, and Braun makes absolutely no reference to any timing of "before . . . detect[ing] the command information and after . . . detecting the predetermined potential," as recited in independent claim 1.

For example, Applicant brings to the attention of the Examiner Figure 2B³, whereby it is evident the clear differences between Braun and Applicant's claimed invention. As outlined in independent claim 1, the system (e.g., Figure 2B, element 10) "detects command information from an external device" (e.g., Figure 2B, element 2), however, the system (e.g., Figure 2B, element 10) is set in "a key operation mode for

³ In making the various references to the specification and drawings set forth herein, it is to be understood that Applicant is in no way intending to limit the scope of the claims to the exemplary embodiments shown in the drawings and described in the specification. Rather, Applicant expressly affirms that it is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

performing a process in accordance with at least operating information supplied from an operation switch operated by a user arranged on a body, before the information detection section detects the command information.” That is, system 10 is operable by a user based on the key operation mode, prior to receiving operating information supplied by external device (e.g., Figure 2B, element 2). Braun does not make any reference to a timing period of receiving operating information before detecting command information.

Takayama does not cure the deficiencies of Duong and Braun. That is, Takayama also does not teach or suggest the “key operation mode for performing a process in accordance with at least operating information supplied from an operating switch operated by a user arranged on a body, before the information detection section detects the command information and after the potential detection section detects the predetermined potential,” as recited in independent claim 1. (emphasis added). Takayama may disclose a “mode switch 204” shown in FIG. 2A, this is used simply to allow a user to use “the mode switch 204 to set the operating mode to the credit card mode” Takayama, ¶ [0462]. However, Takayama makes absolutely no reference to any timing of “before . . . detect[ing] the command information and after . . . detecting the predetermined potential,” as recited in independent claim 1.

As such, Duong, Braun, and Takayama, taken alone or in combination, do not teach or suggest at least “detect[ing] command information from an external device [and] determin[ing] a key operation mode for performing a process in accordance with at least operating information supplied from an operating switch operated by a user arranged on a body, before the information detection section detects the command

information and after the potential detection section detects the predetermined potential," as recited in independent claim 1. (emphasis added).

For at least the above reasons, the Final Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and claim 1. Accordingly, the Final Office Action has not clearly articulated a reason as to why the claim would have been obvious to one of ordinary skill in view of the prior art. A *prima facie* case of obviousness has not been established for independent claim 1 and the Examiner should withdraw the rejection of the claim under 35 U.S.C. § 103(a).

Independent claims 13 and 17, while of different scope from claim 1, are also allowable over Duong, Braun, and Takayama for at least similar reasons as those set forth in connection with independent claim 1.

Claims 2-4, 6-12, and 14-16 depend from independent claims 1 and 13, and because Duong, Braun, and Takayama do not support the rejection of independent claims 1 and 13, under 35 U.S.C. § 103(a), Duong, Braun, and Takayama also do not support the rejection of the dependent claims.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 18, 2009

By: 
Trenton J. Roche
Reg. No. 61,164
(202) 408-4268